

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LORRAINE BONTE,

Plaintiff,

- against -

YORKVILLE CAPITAL and LEONARD
EDELSTEIN,

Defendants.

ORDER

22 Civ. 5531 (ER)

Ramos, D.J.:

Lorraine Bonte brought this action against Yorkville Capital and Leonard Edelstein on June 29, 2022, alleging, *inter alia*, breach of fiduciary duty. Doc. 1. To date, Yorkville Capital has neither been served nor appeared. Leonard Edelstein was served on August 26, 2022 and was required to answer by September 16, 2022. Doc. 10. To date, Edelstein has neither answered nor appeared.

On December 9, 2022, Bonte filed an affidavit seeking default judgment and a proposed clerk's certificate of default against both defendants.¹ Docs. 15, 16. The Clerk of Court entered the certificate of default that same day. Doc. 17. As of January 24, 2023, with respect to Edelstein, Bonte had not taken any additional steps to move for default judgment pursuant to the Default Judgment Procedure of the [Individual Practices of the Court](#).

On January 24, 2023, the Court therefore directed Bonte either to (1) move for default judgment and serve Yorkville Capital, or (2) file a status report with the Court by January 31,

¹ Counsel for Bonte's December 9, 2022 affidavit in support of default judgment provides that Yorkville Capital was served on August 2, 2022 via personal service. Doc. 16. However, no affidavit of service has been filed with the Court.

2023. Doc. 18. The Court further warned that failure to do so may result in dismissal of the case for failure to prosecute. *Id.*

On January 31, 2023, Bonte filed a letter with the Court, advising that on December 15, 2022, her counsel spoke with counsel for Yorkville Capital and Edelstein. Doc. 19. According to Bonte's letter, it was agreed that she would not move forward with default judgment proceedings and that Yorkville Capital and Edelstein would have until February 21, 2023 to respond to the complaint. *Id.* No action has been taken since the January 31, 2023 letter. As noted, neither Yorkville Capital nor Edelstein have appeared or responded to the complaint. And Yorkville Capital has still not been served.

Accordingly, Bonte is hereby directed either to (1) move for default judgment and serve Yorkville Capital, or (2) file a status report with the Court by **April 5, 2023**. Failure to do so will result in dismissal of the case for failure to prosecute.

It is SO ORDERED.

Dated: March 29, 2023
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.